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ABSTRACT

Colorado has been experiencing the efforts by local property tax groups to reduce the dependence for educational revenue by moving away from local property taxes to wider based taxation plans. Paralleling these efforts have been attempts by various groups, through the courts, to change the method of financing education to provide more equality of opportunity for all children. This report details the response of the Colorado State Legislature to these challenges and examines the effects of the laws it has passed to solve some of these problems. (Author/JF)

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AN ANALYSIS OF SENATE BILL 72

COLORADO PUBLIC SCHOOL FINANCE ACT OF 1973

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ANALYSIS OF HOUSE BILL 1562

COLORADO PUBLIC SCHOOL FINANCE ACT OF 1973

PART I - BACKGROUND

Colorado has been experiencing the efforts of local property tax groups to reduce the dependence for educational revenue from local property taxes to wider based taxation plans. Paralleling these efforts have been the attempts by various groups, seeking through the courts, to change the method of inancing education in order that more equality of opportunity could be provided to all children. Confronted with these attempts at reform, the Colorado General Assembly of 1972, by joint resolution, appointed an interim study committee titled "The State and Local Government Finance Committee". This committee had as its major task, the study and investigation of alternative state aid plans for the financing of the school districts of the state. This interim committee followed three years of previous interim committee efforts, all studying fiscal reform at the state level, including an emphasis on educational finance. These efforts were not solely directed at education, but rather were charged with the study and the impact of all state programs and the fiscal implications of the programs. The emphasis placed on educational finance by the court cases and taxpayer efforts, placed major demands upon the interim committees to improve the method of apportioning state dollars to schools. Significantly affecting this discussion of school finance, were the efforts of two groups to place constitutional amendments on the November 1972 general election ballot in Colorado. These petitions were successful and Colorado citizens were asked to vote on: (1) either the removal entirely of local support of education from the property tax, or (2) a proposal which would have severely limited the reliance on property taxes for local education. These two constitutional amendments, the first placed on the ballot by Colorado Project Common Cause, and the second by a

group called the Property Tax Relief Committee, caused great concern among the educational groups as well as the state political organizations. Both amendments were soundly defeated by the electors, however, with a feeling of a mandate to the legislature that they were defeated because of the prospects of an alternative school finance program being developed by the legislature.

The Interim Committee of 1972 had been discussing alternative plans and specifically had requested a group called COED (Council on Educational Development) to present some alternatives to the committee for their study. COED is a non-profit coalition interest group with representation from 16 associations or agencies from the state. Members of COED included the Colorado Association of School Boards, the Colorado Association of Commerce and Industry, the Colorado Department of Education, the Colorado Education Association, the Colorado Association of School Executives, State PTA Group, the State Cattlemen's Association, the State Wool Growers Association, and many other interest groups which serve the state. The COED proposals consisted of 5 alternatives. Three of these were basic modifications of the existing Foundation Act, however, with higher levels of support and higher local contributions in the way of increased mill levies. The fourth and fifth alternatives were labeled as Power Equalization Plans. While they perhaps did not fit the definition of power equalization, as defined by Coons, Clune, and Sugarman, they did seem to embody a new concept and offer some credibility to a new state aid plan. The Interim Committee, which did not meet and study in great detail, determined that alternative four, presented by COED, should be their recommendation to the legislature as a whole when they convened in January. This action of the Interim Committee was taken prior to the general election in November, at which time the two constitutional amendments were voted upon. With the defeat at the polls of the two constitutional amendments, the Interim Committee chose not to investigate any additional alternatives or proposals, but rather maintained their position of recommending COED

alternative four as its proposal. This plan provided basically a $900 fixed unit guarantee for every district of the state. Districts were guaranteed resources of $35 per pupil/per mill for each of the first 20 mills and $12 per pupil/per mill for each of the next 15 mills. Thus a district levying the basic 35 mill program would be guaranteed $900 of revenue to support the educational program in the district.

During the interval of the election and the convening of the general assembly, Governor John Love indicated that one of his goals would be to reduce local property taxes significantly through increasing the state share of local educational costs. This was stated prior to the time a definite plan for financing schools was being prepared for the Governor. The Colorado Department of Education was requested to share some alternative concepts with the Governor's Executive Budget Office. Utilizing a discussion paper which had been prepared in the Department of Education, a second distribution plan which came to be known as the Governor's Plan was developed. This plan eventually was recommended for funding in the Governor's budget message to the Joint Assembly of the Colorado Legislature. This plan provided for a percentage equalization plan whereby the state would contribute 60% on an equalized basis, to the local school districts revenue, as determined by two sources: (1) the local property tax revenue, and (2) the state equalization payment paid to the district in the prior school year. Thus a variable percentage equalization plan was the heart of the Governor's proposal.

Study of School Finance

No formalized study of educational finance was conducted in Colorado. Informal studies by the Department of Education provided simulations of alternative plans and alternative courses of action. These generally were provided on a request basis and were utilized in providing information to the legislature

regarding alternative decisions which they were discussing. Two sets of general objectives of a school aid plan were utilized during the discussions. The first of these is a consensus of the COED group and is shown as follows:

1. A need to assure that adequate funds will be available to permit all school districts to provide a good education program.

2. The need to provide significant movement in the direction of equalizing education opportunities for all pupils.

3. The need to provide significant movement in the direction of equalizing tax burdens among the citizens of the state.

4. The need to reduce the dependence on property tax revenues for financing education programs.

5. The need to move in the direction of accommodating court decisions which, in effect, establish that the quality of a child's education cannot be a function of the wealth of the child's parents, neighbors, or school district.

6. The need to eliminate the practice of relying basically on annual property tax rate increases to finance education cost increases from year to year. State tax resources and revenue growth from the tax base should be utilized to finance the necessary education cost increases.

7. The need to resolve some of the unique problems of property taxation which, notably, place burdens which are regarded to be excessive for people involved in agriculture and for people on fixed incomes.

8. The need to preserve the concept of local control of education, assure that the degree of financial flexibility shall remain with boards of education, and provide authorization for the people of the school community to make decisions about the quality of the education program to be provided.

9. The need to establish limitations on the extent to which school district budgets may be increased from year to year. To accommodate the objectives of a new plan for financing schools, the plan for providing financial resources and a plan for establishing budget limitations must be considered simultaneously. The plan adopted should provide the flexibility needed to permit school districts to accommodate their budget needs and, to accommodate the objectives of reducing and then stabilizing rates of property taxation, provisions should be included in the law to insure that excess revenues will be applied to the reduction of mill levy rates.

Related Considerations

1. The language of the bill should accommodate the year-round school concept.

2. Provision should be included to accommodate the excess costs of financing small attendance centers.

3. Certain programs should continue to be financed through the categorical approach -- such as special education, transportation, etc.

4. Provision should be included in the law to accommodate the budgetary problems of districts experiencing a decline in enrollment. The State-Local Finance Committee has previously approved the concept of permitting districts to base their budget on the ADAE of the budget year or the ADAE of the preceding budget year, whichever is greater.

5. The language should provide for semi-annual financial reports to be submitted by school districts. This would permit financial data to be developed for both the calendar year and the July 1 - June 30 fiscal year.

6. In order to assure the stabilization of property tax rates and permit school cost increases to be accommodated through growth in the tax base, it is suggested that the state establish a committee to allocate a portion of the state general fund revenue growth each year to increase the school equalization program.

Meeting at its regular session on April 13, 1973, the Colorado State Board of Education adopted the following resolution and objective for school finance which they considered to be important:

> ... that to be responsive adequately to the needs of the people of Colorado and the children, youth and adults served by the public schools of the State of Colorado, an acceptable school finance measure must contain the following elements or principles:
>
> 1. Assure that the base of education financing in Colorado is on educational need.
>
> 2. Provide adequate funding for educational programs.
>
> 3. Provide equalization of educational opportunities.
>
> 4. Reduce dependence on local property tax.
>
> 5. Assure that a child's education is not subject to the limitations of his immediate environment nor of the community in which he lives.
>
> 6. Utilize state tax resources and revenue growth from tax base to fund education costs giving education its fair share of economic growth.
>
> 7. Preserve local control of education.
>
> 8. Establish limitations on school district budget increases which provide for flexibility allowing the school districts to accommodate budget needs and insure that excess revenues from the state will be applied to the reduction of mill levy increases.

This was intended to offer some suggestions to the staff of the Department and to inform the legislature as to the position of the State Board of Education regarding any of the proposed alternatives which had been reported in the session of the legislature. The Colorado Department of Education staff concerned itself with providing data and information on alternative state aid plans by utilizing input of objectives both from the COED group, the State Board of Education, and statements from the legislature and the staff. Additionally, consideration was given to the current thoughts regarding school finance and the reports from various other state and federal task forces related to school finance as well as the court cases which were being heard across the country. Additionally, the data from the National Education Finance Project was utilized as background information when discussing alternatives.

During the session, at least five alternatives were discussed or proposed to the legislature. These primarily came through the efforts of individuals or groups which had as their goal the implementation of alternatives more closely related to special interests or political goals. The Democratic party, being in the minority, had a proposal which included some related homestead relief provisions, etc., which they had been proposing. Additionally, a small group of legislators indicated a preference for the plan which would have utilized adjusted gross income rather than property wealth as a measure of school district ability. Many other related bills were introduced and tied to the alternative formulas being discussed. These included the homestead relief provision which was also proposed by the Governor in his budget message, and a change in the method of assessment whereby residential property would have been assessed at 30% of real value and commercial and industrial property at 35% of real value. Provisions were also included to change the capitalization rate on agricultural lands, thus decreasing the assessments on these lands for purposes of the property tax. Related bills also included provisions which would have

frozen other school district revenues at the current rates rather than the potential reductions which might occur due to the loss of property tax revenue in school districts. These included provisions for specific ownership taxes and other related local revenues.

The Course of the Legislation

The first bill introduced into the legislature was House Bill 1062, which was basically the COED four provision. It can be noted in Appendix A, attached, that other alternatives were soon introduced. The discussion of these alternatives and what they proposed, is shown in Appendix A as prepared by the Department of Education for a presentation to the legislature. By agreement, all bills related to financing of the schools were introduced into the House of Representatives and assigned to the House Education Committee for study. From the deliberations of this group, a proposal which was a compromise between the earlier COED proposal and the Governor's Plan was adopted and proposed as House Bill 1562. This basically called for the Governor's identification of the level of support on a variable basis for every district and utilized a guaranteed mill equivalency of $29.50 per pupil/per mill, which was identical to the 60% equalization factor originally proposed by the Governor. In addition, certain add-on provisions for small attendance centers, a Review Board, and several other concepts were included in the bill. This bill was passed in the House of Representatives and sent to the Senate. The Senate had decided to pass an alternative measure which called for less state funds, however, they soon changed their position in a compromise committee and passed the House version at a somewhat lower rate. The final compromise set the level of support midway between the House version and the Senate version and was soon passed by both Houses and signed into law as Colorado's Public School Finance Act of 1973.

PART II - DESCRIPTION OF THE ACT

Colorado's new finance plan can basically be described as a variable level, resource equalization plan. The primary thrust in Colorado was toward the reduction of local property tax using school aid as the vehicle. Additionally, it provided for somewhat of a leveling up of the lower spending districts while maintaining the spending in higher level districts. There is no provision for local tax leeway except as permitted by a special State School District Budget Review Board

RESOURCES AND BUDGET

I. Provisions for Raising State School Revenue

A. Earmarked State Taxes

Colorado law earmarks only the revenue from the state school lands and the miscellaneous federal mineral lease royalties to the state public school income fund. No other earmarked state taxes are specifically set aside for school districts. This is no change from previous years in Colorado.

B. Unearmarked State Taxes

Revenue for funding Colorado schools through the state finance program is provided through the general fund of the state. All tax monies from the income tax, sales tax, etc., flow through the general fund. The Colorado Revenue Estimating Committee projects a surplus of $120,000,000 at the close of the 1972-73 fiscal year. No proposals for additional taxes were made to fund the new finance act. Revenue projections for the next five years showed that revenue would be available at existing state rates to accommodate the increases provided for in the new Finance Act.

C. Percent of Increase of State Support.

The appropriation from the general fund for the equalization program

increased from $144.3 million to $219.08 million. This is in addition to the approximately $8 million available from the public school lands and mineral leases which is not appropriated. This appropriation represents only the first one-half year funding for the new program, as Colorado school districts budget on a calendar year basis rather than a fiscal year of July to June. Actual calendar state equalization support is estimated to increase from $160.3 million in calendar 1973 to approximately $294 million in calendar year 1974, which represents the first full year of the new program. The total percentage of school district general fund budgeted expenditures provided from state sources is anticipated to increase from approximately 31% in calendar year 1973 to approximately 51% in the 1974 calendar year. The table in Appendix B shows the budgeted figures for each of four actual years and an estimate for the 1974 year.

II. Provision for Raising Local School Revenue

A. Tax Bases and Rates for Basic State Program.

Each local school district will have provided to it an authorized revenue base per pupil for the budget year. This authorized revenue base, in the case of most districts, will be divided by the $25 in determining the new local rate. Once this is determined, the mill rate cannot be exceeded unless approval by the State School District Budget Review Board is obtained. School districts which raise more than $17 per pupil/per mill will have available to them the amount raised per mill in the local district per pupil plus a guaranteed $8 per mill/per pupil which is the minimum state program for any district. These districts will add their local revenue plus the $8 and divide their authorized revenue base by this figure to determine their local mill rate. This is the maximum mill rate any district can

authorize. Districts can, however, choose less of an authorized revenue base and thereby reduce the local rate below the maximum allowed. In no way can they exceed the maximum.

B. Equalized or Unequalized Local Leeway.

No district is authorized to exceed the mill rate as provided for under the law. A state School District Budget Review Board can hear appeals to increase the authorized revenue base (level of support) and authorize additional mills in the district to provide the revenue to reach the authorized revenue base per pupil. There is no budget increase limitation and no specific dollar increase limitation however the revenue limitation is provided. Local school district authorized revenue base per pupil increases are provided for with the following percentages:

If the revenue base for the preceding budget year was:	The authorized revenue base, per pupil of attendance entitlement, for the budget year shall be the following percent of the revenue base for the preceding budget year:
Over $750 but not over $800	112%
Over 800 but not over 850	111%
Over 850 but not over 900	110%
Over 900 but not over 950	109%
Over 950 but not over 1000	108%
Over 1000	107%

No district is required to be below $750 in the authorized revenue base for 1974.

C. Local School Taxes for Capital Outlay and Debt Service.

A separate bill during the 1973 legislative session provided for an increase in the capital reserve mill levy for school districts. Presently school districts can levy two mills against the local property taxes for capital outlay expenditures and on-going construction, site improvement, etc. This is in addition to the general fund capital outlay provisions. The new legislation provides 4 mills for the same

purposes. Debt service and the provision for paying off bonds and interest is unchanged. School district bonded debt limitation, which previously had been set at 10% of the local assessed valuation, (30% of real value) were increased from 10% to 20%. There is some question on the legality of the legislation and this is being currently held up by the bonding attorneys in Colorado.

D. Provisions for Local Property Tax Administration and State Supervision. No specific changes were made in any of the provisions currently being applied. All local property tax is collected by the county treasurers and forwarded to the school districts, determined by their levy against the assessed valuation in the district. School district boundaries and county boundaries are not coterminous in Colorado, therefore revenue received in the local district often is received from two or more county administrative units. State supervision is accomplished through working with county treasurers and assessors in the provision for property tax administration.

III. Local Tax Relief Provisions or Effects.

The effect of the new Act on local property tax relief is shown in Appendix C. Some districts receive little or no reduction in the tax rate in the district. Others receive significant mill reductions. This is shown in Appendix C in the columns marked mill rate 1973 and projected mill rate 1974. The overall effect utilizing a weighted average for the state provides for approximately an 18 mill reduction on the assessed valuation in the State of Colorado.

IV. Effect of the Act Toward Equalizing the Revenue Raising Ability of School Districts.

The new Act provides a definite equalization factor in the revenue raising capability of local school districts. The new Act utilizes exis-

ting revenue as the basis for determining the local level of support rather than expenditures as many other state plans have provided. Every district is guaranteed revenue from two sources. (1) The local property tax, and (2) the state general fund. On the basis of a $25 guarantee for each mill a district levies, resources are equalized to a greater extent.

DISTRIBUTIONS

I. Principal State Aid Program

A. Program Calculations or Basis of Entitlement

1. Guaranteed program level. Units supported are pupils in average daily attendance during a special four-week counting period ending the fourth Friday in October. Alternate counting periods can be provided by action of the State Board of Education. To offset any temporary low attendance periods during the counting period, the district has the option of using 96% of the membership if it exceeds the average daily attendance during the counting period. In addition, to offset the problem in districts facing declining enrollment, the district has the option of using the preceding year's average daily attendance entitlement or the current count, whichever is greater. This provides one year of leeway in "tooling down" from existing budget levels. The guaranteed program level is a variable, determined by adding together the previous year's revenue per pupil from the local general fund property tax, and the previous year's equalization payment made by the state per pupil to the district. The sum of these two factors is allowed to increase at a graduated rate shown previously. This new level becomes the authorized revenue base for the ensuing calendar

year, and districts are guaranteed this level on the basis of $25 per pupil/per mill which they levy. No provisions for cost variations or pupil/program weightings are accommodated specifically. This is provided in that districts have determined the needs in the past and to the extent that they have determined these needs have gone to the local property tax for the additional dollars for any cost variations. Thus all variables are indirectly considered in the new plan including density, sparsity, municipal over-burden, etc.

The new law provides one special feature for density. Any district which has over 700 pupils per square mile; has over 300,000 residents in the school district; and more than 15% of the children are in families receiving AFDC, or general welfare support, will receive a 15% increase in the level of support above the current rate. That is, rather than a $25 guarantee, that district would be afforded a $28.75 guarantee if it meets the three factors. (Denver will be the only district to qualify).

2. Enrollment decrease or increase provisions. Increases in enrollment are accommodated by the Act providing that revenue can be provided for each pupil in average daily attendance entitlement on the basis of actual district counts. Thus for each new pupil, the district is allowed to increase its overall budget. Enrollment decreases are accommodated as mentioned earlier with the district having the option of using the previous year's average daily attendance entitlement count or the new count, whichever is greater. Thus the authorized revenue base and the total budget capacity can be greater than the new count if the district is losing enrollment and utilizes the previous year's figures.

3. Special or categorical program provisions. Colorado currently provides for special categorical programs outside the finance act. Significant increases were provided in House Bill 1164, The Handicapped Children's Education Act (funding was increased from $11.7 million to $16.3 million for the purposes of this Act). The Act provides basically for a reimbursement of costs of districts for salaries, materials, and supplies and other related expenses for programs for the handicapped. Transportation of pupils was accommodated through House Bill 1466 which provided an increase in the allocation of state aid for transportation. The prior program provided reimbursement at the rate of 15¢ per mile for buses, and 3¢ per aggregate pupils transported during the year. The new program provides for 24¢ per mile on a basis with no provisions for the aggregate number of days of pupils transported. This is a significant increase for rural districts which travel many miles but transport fewer children. Slight increases for Vocational Education were provided but with basically the same distribution formula. No other increases of significance were included in the new legislation.

4. Local incentive provisions. No additional program changes were initiated in this area.

5. Other program calculations. Small attendance centers, which previously had been provided for in districts which by necessity had to have small attendance units, was increased in the new Act. Previously the number of bonus pupils were determined on a weighted scale in each small attendance center. Each bonus pupil was provided for at the rate of $518 per pupil, which is the current foundation level of support. Under the new plan, districts

will receive the authorized revenue base for each bonus pupil or the amount of revenue from the $25 mill effort, whichever provides the lesser amount to the district.

B. Funding Plan for Principal State Aid Program.

1. State and Local Shares.

The local share of the $25 guarantee per pupil/per mill is the revenue raised in the district by the mill rate. For example, if a district raises $12 per pupil/per mill, their share will be $12 per mill levied and the state share will be $13 per mill levied up to the authorized revenue base of the district. In wealthier districts, wherein they would raise more than $17 per pupil/per mill, the state guarantees that no district will receive less than $8 per mill levied. One additional provision benefits two districts in the state. This special provision provides that no district shall experience less than an 18 mill reduction if they have less than $1200 per capita income in the county, and is in a school district which has an authorized revenue base in 1974 of less than $750 per pupil.

2. Provisions for Transition.

Leveling up is provided for by establishing the variable level of support allowing greater revenue increases on a percentage basis for the lower revenue districts as shown on the earlier table in this report. High level spending districts are held to a maximum of 7% increase in the authorized revenue base for each of the ensuing budget years.

3. Save Harmless.

No district has a provision of save harmless or minimum participation guarantees.

4. State Budget Review and Approval Provisions.

No review of budgeted increases is provided for unless a district desires to increase above the authorized revenue base as calculated by the state. A special School District Budget Review Board consisting of the State Lieutenant Governor, who is the Chairman; the State Treasurer; and the Chairman of the State Board of Education shall serve on this board. Final determination and appeal is only with this review board.

C. Specific non-revenue requirements for local participation.

No special requirements are provided for other than the local contribution of the mill rate to participate in the state program.

II. State Aid Distributed Separately from Principal State Aid Program.

Other than the categorical provision provided for in the earlier mentioned provision, no other general fund state aid programs are in operation in Colorado.

III. Other Related Provisions.

No other provisions are included in the new finance Act other than the apportionment formula, revenue limitations, and special provisions as outlined in earlier statements. No provisions concerning teacher salaries negotiations, educational accountability, or state local financial control are included other than as mentioned in the earlier provisions of this report.

PART III - EFFECT ON SELECTED DISTRICTS

In Appendix C is shown a report prepared for the conference committee of the legislature which provides information on the impact of the entire Act on all of the 181 districts in Colorado. Also included is a table showing the 1973 actual data for each of the school districts in Colorado (Appendix D). A specific summary would be shown as follows: School districts receiving the

greatest mill reduction would be the suburban districts around Denver that have by necessity had high revenue bases from the local property tax and state equalization, but which were poor districts in terms of the assessed valuation per pupil. Assessed valuation is the only measure used in Colorado to determine local ability. Districts receiving the least aid are those districts at the higher expenditure level but with high assessed valuations per pupil, thus the equalization effect has been considered.

PART IV - LEGAL IMPLICATIONS

The provisions of this new Act in terms of meeting the Serano and Rodriguez kinds of court cases is debatable. Significant equalization of property tax rates has been afforded by the new Act and a standard deviation utilizing property tax rates in Colorado would show a significant reduction in the standard deviation under the new Act. The range in mill rates has been significantly decreased in Colorado school districts. The fact that Colorado counties have assessments based on locally elected county assessors provides a problem in the equalization of assessment practices. Colorado has a wide range in the equality of assessments and this probably would be open to litigation in court actions. The new Act does allow those districts with very low revenue bases, as provided by the local property tax, to significantly increase that amount and to be guaranteed the revenue through the resource equalization provision of the $25 per mill guarantee. By placing no limitation on those districts which currently are below $750, the very bottom districts are able to move up immediately. The graduated scale which provides 112% increases to the districts between $750 and $800 graduated to 107% for those over $1000, while not providing the full capability, at least shows the intent of allowing those districts to move up at a slightly faster rate. The courts would possibly consider that this new Act would be a step in the direction of improving the method of apportioning state funds and thereby may decide a substantial compliance has been undertaken

by this new Act. Whether or not the efforts would be significant over a longer period, would be questionable and the courts would have to rule on the merits of the new formula and related provisions.